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10/660,300

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EXAMINER

LEE, PHILIP C

ART UNIT

PAPER NUMBER

2152

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/660,300

Applicant(s)

EMARU ET AL.

Examiner

Philip C. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/10/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-20 are presented for examination.

#### *Objection*

2. Claims 8-11, 13, 15-20 are objected to because of the following informalities or grammar errors: As per claims 8 (lines 9 and 12), 9 (lines 9 and 10), 10 (lines 10-11 and 12), 13 (lines 8-9 and 11), 19 (lines 6 and 9), “the stored operating data” should be “the operating data stored”; As per claims 11 (lines 8, 9, 13), 15 (line 10), 20 (lines 8), “the identified operating data” should be “the operating data identified”; As per claims 11 (line 15), 17 (lines 3-4), “the received operating data” should be “the operating data received”.

3. Claim 20 is objected to because according to MPEP 608.01, antecedent basis for the terms appearing in the claims, while an applicant is not limited to the nomenclature used in the application as filed, he or she should make appropriate amendment of the specification whenever this nomenclature is departed from by amendment of the claims so as to have clear support or antecedent basis in the specification for the new terms appearing in the claims. Applicant will be required to make appropriate amendment to the description to provide clear support or antecedent basis for the terms appearing in the claims provided no new matter is introduced. The term “computer readable medium” is lacking clear support or antecedent basis in the description of the specification.

*Claim Rejections – 35 USC 112*

4. Claims 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following terms lack proper antecedent basis:
  - i. the communication device – claims 15 and 20.
- b. Claim language in the following claims is not clearly understood:
  - ii. As per claim 17, line 3, it is unclear if “an event” refers to “an event” in claim 15, line 5 [i.e., if they are the same, then terms such as “the” or “said” should be used]; Line 4, it is unclear if “a portion of the operating data” refers to “a portion of the operating data” in claim 15, lines 6-7.
  - iii. As per claim 19, lines 8-9, it is unclear if “a portion of the operating data” refers to “a portion of the operating data” in claim 15, lines 6-7.

*Claim Rejections – 35 USC 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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6. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-2, 5-16 and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by McGee et al, U.S. Patent 6,643,613 (hereinafter McGee).

8. As per claim 1, McGee teaches the invention as claimed comprising:

a communication device configured to receive operating data of a monitoring object (to receive metric data) inside a managed computer and information relating to an event (to receive threshold alarm events (notification of out-of-tolerance metrics)) (fig. 14; col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52); and

a processor configured to identify from the operating data received by the communication device a portion of the operating data which relates to the event (to identify a portion (e.g., 45 of the 325 pairs of metrics) relates to the alarm group) (col. 21, lines 12-26; col. 19, lines 21-23), based on the operating data and the information relating to the event indicating trouble occurrence or performance decrement of the monitoring object (based on metric data and list of threshold alarm events)(fig. 14; col. 20, lines 52-57; col. 2, lines 19-21).

9. As per claim 12, McGee teaches the invention as claimed comprising:

a communication device configured to receive operating data of a monitoring object (to receive metric data) and information relating to an event (to receive threshold alarm events (notification of out-of-tolerance metrics)) (fig. 14; col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52); and

a processor configured to identify from the operating data received by the communication device a portion of the operating data which relates to the event (to identify a portion (e.g., 45 of the 325 pairs of metrics) relates to the alarm group) (col. 21, lines 12-26; col. 19, lines 21-23), based on the operating data and the information relating to the event indicating trouble occurrence or performance decrement of the monitoring object (based on metric data and list of threshold alarm events)(fig. 14; col. 20, lines 52-57; col. 2, lines 19-21).

10. As per claim 15, McGee teaches the invention as claimed for managing one or more monitoring objects on the basis of operating data (col. 18, line 60-col. 19, line 5), comprising:

receiving the operating data of the monitoring object (receiving metric data) and information relating to an event (receiving threshold alarm events (notification of out-of-tolerance metrics)) (fig. 14; col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52);

identifying from the operating data received by the communication device a portion of the operating data which relates to the event (to identify a portion (e.g., 45 of the 325 pairs of metrics) relates to the alarm group) (col. 21, lines 12-26; col. 19, lines 21-23), based on the

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operating data and the information relating to the event indicating trouble occurrence or performance decrement of the monitoring object (based on metric data and list of threshold alarm events)(fig. 14; col. 20, lines 52-57; col. 2, lines 19-21); and

displaying the identified operating data (col. 7, lines 33-47).

11. As per claims 2 and 16, McGee teaches the invention as claimed in claims 1 and 15 above. McGee further teach wherein the information relating to the event includes at least one of information showing presence or absence of occurrence of the event, information showing an occurrence time of the event, and information showing a classification of the event (col. 19, lines 6-10), and

wherein the processor of the management computer is configured to identify the portion of the operating data which relates to the event (col. 21, lines 12-26; col. 19, lines 21-23), based on the operating data and the information relating to the event including at least one of the information showing presence or absence of occurrence of the event (fig. 14; col. 20, lines 52-57; col. 2, lines 19-21), the information showing the occurrence time of the event, and the information showing the classification of the event (col. 19, 6-10).

12. As per claim 5, McGee teaches the invention as claimed in claim 1 above. McGee further teach wherein the monitoring object includes at least one of a hardware structure part in a storage device (monitoring memory utilization, col. 5, lines 14-19) connected to the management computer through a network (col. 25, lines 1-6) and a program stored in the storage device in the

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managed computer (It is inherent that a program must be stored in memory of a database server or network computer) (col. 6, lines 45-47; col. 18, lines 60-62).

13. As per claim 6, McGee teaches the invention as claimed in claim 1 above. McGee further teach wherein the portion of the operating data identified by the process is to be used for trouble analysis and to carry out the trouble analysis (col. 2, lines 19-21).

14. As per claim 7, McGee teaches the invention as claimed comprising a management computer and a managed computer which is managed by the management computer (fig. 14; col. 18, lines 60-62; col. 25, lines 1-6),

wherein the managed computer includes:

a managed computer processor which is configured to obtain operating data from a monitoring object (collects metric data from a system) and to generate information relating to an event indicating trouble occurrence or performance decrement of the monitoring object (provides threshold alarm event (notification of out-of-tolerance metric)) (fig. 14; col. 6, lines 43-52; col. 18, lines 60-65); and

a managed computer communication device which is configured to transmit the operating data from the monitoring object and the information relating to the event to the management computer (send both metric data and threshold alarm event)(fig. 14; col. 6, lines 43-52; col. 18, line 65-col. 19, line 5), and

wherein the management computer includes:



a management computer communication device which is configured to receive from the managed computer communication device the operating data and the information relating to the event (to receive metric data and threshold alarm event) (col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52) and

a management computer processor which is configured to identify from the operating data received by the management computer communication device a portion of the operating data relating to the event (to identify a portion (e.g., 45 of the 325 pairs of metrics) relates to the alarm group) (col. 21, lines 12-26; col. 19, lines 21-23), based on the portion of the operating data and the information relating to the event (based on metric data and list of threshold alarm events)(fig. 14; col. 20, lines 52-57).

15. As per claims 8, 13 and 19, McGee teaches the invention as claimed in claims 7, 12 and 15 above. McGee further teach wherein the management computer further includes an operating data buffer (1406, fig. 14) and a data storage (1410, fig. 14); and wherein the management computer processor is configured to store the operating data from the managed computer in the operating data buffer (col. 19, lines 2-5); and wherein the management computer processor is configured, when the information relating to the event is received, to store the information relating to event in the operating data buffer in association with the operating data stored in the operating data buffer (col. 19, lines 6-23; col. 20, lines 12-14), to write the stored operating data and the information relating to the event from the operating data buffer to the data storage (col. 22, lines 31-33), and to identify from the operating data received by the management computer communication device a portion of the operating data relating to the event (col. 21, lines 12-26;

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col. 19, lines 21-23), based on the stored operating data and the information relating to the event written to the data storage (fig. 14; col. 20, lines 52-57; col. 22, lines 31-33; col. 23, line 58-col. 24, line 5).

16. As per claim 9, McGee teaches the invention as claimed in claim 7 above. McGee further teach wherein the management computer further includes an operating data buffer (1406, fig. 14) and a data storage (1410, fig. 14); and wherein the management computer processor is configured to store the operating data from the managed computer in the operating data buffer (col. 19, lines 2-5); wherein the management computer processor is configured, when the information relating to the event is received, to store the information relating to event in the operating data buffer in association with the operating data stored in the operating data buffer (col. 19, lines 6-23; col. 20, lines 12-14), to write a part of the stored operating data and the information relating to the event from the operating data buffer to the data storage (fig. 14; col. 22, lines 31-33), the part of the stored operating data to be written to the data storage relating to the event (col. 21, lines 12-26), based on the part of the stored operating data and the information relating to the event written to the data storage (fig. 14; col. 20, lines 52-57; col. 22, lines 31-33; col. 23, line 58-col. 24, line 5).

17. As per claim 10, McGee teaches the invention as claimed in claim 7 above. McGee further teach wherein the management computer further includes an operating data buffer (1406, fig. 14) and a data storage (1410, fig. 14); and wherein the management computer processor is configured to store the operating data from the managed computer in the operating data buffer

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(col. 19, lines 2-5); and wherein the management computer processor is configured, when the information relating to the event is received, to store the information relating to event in the operating data buffer in association with the operating data stored in the operating data buffer (col. 19, lines 6-23; col. 20, lines 12-14), to determine a part of the operating data to be written from the operating data buffer to the data storage based on the information relating to the event (col. 21, lines 12-26), and to write the part of the stored operating data from the operating data buffer to the data storage (fig. 14; col. 22, lines 31-33), and to carry out the trouble analysis based on the part of the stored operating data written to the data storage (col. 23, line 58-col. 24, line 5; col. 2, lines 19-21).

18. As per claim 11, McGee teaches the invention as claimed comprising a management computer and a managed computer (fig. 14; col. 18, lines 60-62; col. 25, lines 1-6) which is subjected to trouble monitoring by the management computer (col. 18, line 65-col. 19, line 2),

wherein the managed computer includes:

a managed computer processor which is configured to obtain operating data from a monitoring object (to receive metric data) and to generate information relating to an event indicating trouble occurrence or performance decrement of the monitoring object (provides threshold alarm event (notification of out-of-tolerance metric)) (fig. 14; col. 6, lines 43-52; col. 18, lines 60-65); and

a managed computer communication device which is configured to identify the operating data relating to the event and to transmit the identified operating data to the management computer, based on the identified operating data and the information

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relating to the event (collects metrics, perform threshold checks, and sends both metric data and threshold alarm events)(col. 6, lines 43-52; col. 18, line 65-col. 19, line 5); and

wherein the management computer includes:

a management computer communication device which is configured to receive the identified operating data from the managed computer communication device (to receive metric data and threshold alarm event) (col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52); and

a management computer communication processor which is configured to carry out the trouble analysis based on the received operating data (col. 2, lines 19-21; col. 18, line 65-col. 19, line 2; col. 23, line 64-col. 24, line 5).

19. As per claim 14, McGee teaches the invention as claimed comprising:

a processor configured to obtain operating data from a monitoring object (collects metric data from a system) and to generate information relating to an event indicating trouble occurrence or performance decrement of the monitoring object (provides threshold alarm event (notification of out-of-tolerance metric)) (fig. 14; col. 6, lines 43-52; col. 18, lines 60-65); and

a communication device configured to identify from the operating data obtained from the monitoring object a portion of the operating data which relates to the event(to identify a portion (e.g., 45 of the 325 pairs of metrics) relates to the alarm group) (col. 21, lines 12-26; col. 19, lines 21-23), based on the operating data and the information relating

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to the event (based on metric data and list of threshold alarm events)(fig. 14; col. 20, lines 52-57; col. 2, lines 19-21).

20. As per claim 20, McGee teaches the invention as claimed for managing a monitoring object on the basis of operating data (col. 18, line 60-col. 19, line 5), comprising: code for receiving the operating data (receiving metric data) (fig. 14; col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52); code for identifying from the operating data received by the communication device a portion of the operating data which relates to the event (e.g., 45 of the 325 pairs of metrics) relates to the alarm group) (col. 21, lines 12-26; col. 19, lines 21-23), based on the operating data and the information relating to the event indicating trouble occurrence or performance decrement of the monitoring object (based on metric data and list of threshold alarm events)(fig. 14; col. 20, lines 52-57; col. 2, lines 19-21); and code for displaying the identified operating data(col. 7, lines 33-47).

### *Claim Rejections – 35 USC 103*

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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22. Claims 3-4 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGee in view of Wilson et al, U.S. Patent 6,714,976 (hereinafter Wilson).

23. As per claims 3 and 17, McGee teaches the invention as claimed in claims 1 and 15 above. Although McGee teaches wherein the management computer is configured to manage a plurality of managed computers (fig. 14; col. 18, lines 60-62; col. 25, lines 1-6), wherein the communication device is configured to receive operating data of monitoring objects inside the plurality of managed computers and information relating to an event (fig. 14; col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52), identifying from the operating data received by the communication device a portion of the operating data which is received from the managed computer in which the event occurred (col. 21, lines 12-26; col. 19, lines 21-23), and wherein the processor of the management computer is configured to identify the portion of the operating data which relates to the event (col. 21, lines 12-26; col. 19, lines 21-23), based on the operating data and the information relating to the event including the host information (fig. 14; col. 20, lines 52-57; col. 2, lines 19-21), however, McGee does not teach wherein the information relating to an event includes host information. Wilson teaches wherein the information relating to an event includes host information (268, fig. 11; 286, fig. 12).

24. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McGee and Wilson because Wilson's teaching of information relating to an event includes host information would increase the alertness in

McGee's system by allowing the monitored object to be identified along with the monitored metric data and the threshold alarm events.

25. As per claims 4 and 18, McGee and Wilson teach the invention substantially as claimed in claims 3 and 17 above. McGee further teach wherein the information relating to the event includes information showing presence or absence of occurrence of the event (notification of out-of-tolerance metric) (col. 19, lines 6-10), and wherein the processor of the management computer is configured to identify the portion of the operating data which relates to the event (col. 21, lines 12-26; col. 19, lines 21-23), based on the operating data and the information showing presence or absence of occurrence of the event (fig. 14; col. 20, lines 52-57; col. 19, lines 1-10).

### CONCLUSION

26. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Lee whose telephone number is (571)272-3967. The examiner can normally be reached on 8 AM TO 5:30 PM Monday to Thursday and every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

P.L.

A handwritten signature in cursive script, appearing to read "Philip He".